

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT COURT OF NEW YORK

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JOHN GORMAN,

Plaintiff,

-against-

**Civil Case No.: 1:14-cv-434**

RENSSELAER COUNTY , SHERIFF JACK MAHAR,  
ANTHONY PATRICELLI, UNDERSHERIFF PATRICK  
RUSSO, COUNTY HUMAN RESOURCES MANGER  
TOM HENDRY.

Defendant.

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STATE OF NEW YORK     )

COUNTY OF ALBANY     ) ss.:

The undersigned, PATRICK SORSBY, ESQ, an attorney-at-law duly admitted to practice in the courts of the State of New York, does hereby affirm the truth of the following statements under penalty of perjury.

PATRICK SORSBY, ESQ., having affirmed under the penalty of perjury, deposes and says:

1. I am an attorney and counselor at law attorney for Plaintiff, John Gorman, and as such, I am fully familiar with all the facts, circumstances and proceedings heretofore had herein.
2. I make this affirmation in support of Plaintiff's Opposition to Defendants motion for an Order, pursuant to Rule 56 of the Federal Rules of Civil Procedure, dismissing the plaintiff's Complaint with prejudice.
3. The instant action began with a filing of Complaint in the United States District Court for the Northern District of New York on April 17, 2014. See Dkt 1.
4. Plaintiff filed amended complaints on May 31, 2014 and August 20, 2015. See Dkt. 15 and Dkt. 50.
5. Attached hereto as Exhibit "1" is copy of Plaintiffs Second Amended Complaint (Dkt 50).

6. Attached hereto as Exhibit "2" is a copy of Defendants Answer to Plaintiffs Second Amended Complaint.
7. Defendants served no Discovery requests in this matter.
8. Plaintiff served its First Document Request on or about August 18, 2015 and Defendants served their response on or about October 7, 2015.
9. Plaintiff served its Second Document Request on or about October 9 2015.
10. After much motion practice Defendants served their response to Plaintiffs Second Discovery Request. Said Response consisted of two boxes of documents only a portion of which was responsive to this case. According rather than upload boxes of documents Plaintiff will only attach as separate exhibits those documents that are relevant.
11. Thereafter, a number of depositions were taken.
12. The plaintiff's deposition was taken on June 15, 2016. Attached hereto as Exhibit "3" is a copy of the deposition transcript.
13. The Deposition of Defendants employee Christine La Fountain was taken on September 24, 2015. Attached hereto as Exhibit "4" is a copy of the deposition transcript.
14. The Deposition of Defendants employee Scott Ryan was taken on September 24, 2015. Attached hereto as Exhibit "5" is a copy of the deposition transcript.
15. The Deposition of Defendants employee Jeffery Ranken was taken on September 24, 2015. Attached hereto as Exhibit "6" is a copy of the deposition transcript.
16. The Deposition of non-party deponent State Trooper Investigator Erika L. Hock was taken on October 28, 2015. Attached hereto as Exhibit "7" is a copy of the deposition transcript.
17. The Deposition of non-party deponent Dr. William McIntyre was taken on October 22, 2015. Attached hereto as Exhibit "8" is a copy of the deposition transcript.
18. The Deposition of Defendant Kathleen Jimino was taken on September 25, 2015. Attached hereto as Exhibit "9" is a copy of the deposition transcript.
19. The Deposition of Defendant Thomas Hendry was taken on November 13, 2015. Attached hereto as Exhibit "10" is a copy of the deposition transcript.
20. The Deposition of Defendant Patrick Russo was taken on October 28, 2015. Attached hereto as Exhibit "11" is a copy of the deposition transcript.
21. The Deposition of Defendant Anthony Patricelli was taken on June 20, 2016. Attached hereto as Exhibit "12" is a copy of the deposition transcript.

22. The Deposition of Defendant Jack Mahar was taken on June 23, 2016. Attached hereto as Exhibit "13" is a copy of the deposition transcript.
23. The Deposition of Defendant Ruth Federicks (formerly known as Ruth Vibert) was taken on January 20, 2016. Attached hereto as Exhibit "14" is a copy of the deposition transcript.
24. Attached hereto as Exhibit "15" is a copy of exhibit 37 which was entered during the Deposition of State Trooper Hock. Exhibit "15" is copy consists of Defendant Patricelli's Arrest report and incident report surrounding his February threat of violence against Mr. Gorman (to break his jaw). Additionally, Exhibit 15 consists of a CPLR 4518 certification as to admissibility.
25. Attached hereto as Exhibit "16" is a copy of exhibit 38 which was entered during of the Depositions of Defendants Employees. Exhibit 16 is the supporting deposition for the arrest of Defendant Patricelli.
26. Attached hereto as Exhibit "17" is a copy of Plaintiffs Deposition exhibit 39 was entered during of the Depositions of Defendants Employees. Exhibit 17 is the Criminal Information for the arrest of Defendant Patricelli.
27. Attached hereto as Exhibit "18" is a copy of Defendant Counties 2014 Quarterly Classification. This document was provided in response to Plaintiffs Second Document Request. Exhibit 18 shows among other things the budget allocated positions at the Sherriff's Department vs positions actually filled.
28. Attached hereto as Exhibit "19" is a copy of Defendant Patricelli's overtime usage log. Exhibit "19" shows that Defendant Patricelli did gang related "impact" work after his normal work schedule.
29. Attached hereto as Exhibit "20" is a copy of Defendant Patricelli's 3 page incident report which gives version of facts regarding some the incidents of harassment that Mr. Gorman has alleged in this case.
30. Attached hereto as Exhibit "21" is a copy of Certificate List of Eligible showing Jason Lucey on the list when Mr. Gorman alleges that he was ineligible to be as he was not employed by the Sherriff's department and had accepted a job with the fire department.
31. Attached hereto as Exhibit "22" is a copy of a transcript of Sergeant Rankin taken at Mr. Gorman's Workers compensation hearing.
32. Attached hereto as Exhibit "23" is a copy of Letter from Mr. Gorman to Defendant Jimino at the top right corner is hand writing stating "Tom whats the status of this complaint, Kathy".
33. Attached hereto as Exhibit "24" is a copy of the October 1, 2014 termination letter of John Gorman.
34. Attached hereto as Exhibit "25" is a copy of the EEOC right to sue letter issued in this case.

35. Attached hereto as Exhibit "26" is a copy of the Sherriff department's June 23, 2014 notice to Mr. Gorman that unless he requests a due process hearing the effective date of his termination will be July 15, 2014.
36. Attached hereto as Exhibit "27" is a copy of a letter from Defendant County's Civil Service Commission dated July 27, 2015.
37. Attached hereto as Exhibit "28" is a copy of a "Treatment Consultation Summary" by Mr. Gorman's treating physician.
38. Attached hereto as Exhibit "29" is a 2015 letter from the County indicating that Mr. Gorman can only come back to work if his disability has ceased.
39. Attached hereto as Exhibit "30" is a letter from Defendant Hendry concluding his work place violence investigation and determining that nothing should be done.
40. Discovery in this matter closed on July 1, 2016.

Dated August 20, 2016  
Albany NY

Respectfully Submitted,

LAW OFFICE OF PATRICK SORSBY

By S/

Patrick Sorsby

Bar Roll No.: 517840

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CC: **Via ECF**

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